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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 BRIAN CORTLAND,

11 Plaintiff,

12 v.

13 JEFFERY S. and DINA B. MEYERS, et
14 al.,

15 Defendants.

CASE NO. C11-5489BHS

ORDER DENYING
DEFENDANTS' MOTION
FOR ATTORNEY FEES

16 This matter comes before the Court on Defendants Jeff and Dina Myers and Law,
17 Lyman, Daniel, Kamerrer & Bogdanovich, P.S.'s ("Defendants") motion for attorney fees
18 (Dkt. 24). The Court has reviewed the briefs filed in support of and in opposition to the
19 motion and the remainder of the file and hereby denies the motion for the reasons stated
20 herein.

21 **I. BACKGROUND**

22 On June 27, 2011, Plaintiff Brian Cortland ("Cortland") filed an amended
23 complaint against Defendants Jeffrey S. and Dina B. Myers; Law, Lyman, Daniel,
24 Kamerrer & Bogdanovich, P.S. ("Defendants"); and any unknown 1-50 John and Jane
25 Does in the Superior Court for the State of Washington in Thurston County. Dkt. 3,
26

1 Declaration of John Justice (“Justice Decl.”), at 12-20. On June 28, 2011, Defendants
2 removed the action to this Court. Dkt. 1.

3 On July 13, 2011, Defendants filed a motion to dismiss. Dkt. 8. On August 12,
4 2011, the Court granted Defendants’ motion and granted Cortland leave to amend his
5 complaint. Dkt. 12.

6 On August 25, 2011, Cortland filed two Second Amended Complaints. Dkts. 13 &
7 14 (“SAC”). On September 2, 2011, Defendants filed a motion to dismiss. Dkt. 15. On
8 October 17, 2011, the Court granted the motion and dismissed Cortland’s federal claims.
9 Dkt. 22.

10 On October 18, 2011, Defendants filed a motion for attorney fees. Dkt. 24. On
11 October 26, 2011, Cortland responded. Dkt. 26. On October 31, 2011, Defendants
12 replied. Dkt. 29.

14 II. DISCUSSION

15 Courts may award attorney fees to the prevailing party in an action brought
16 pursuant to 42 U.S.C. § 1983. 42 U.S.C. § 1988. When a defendant requests fees, the
17 Court may award attorney fees “upon a finding that the plaintiff’s action was frivolous,
18 unreasonable, or without foundation.” *Fox v. Vice*, 131 S. Ct. 2205, 2213 (2011) (quoting
19 *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 421 (1978)).

20 In this case, the Court dismissed Cortland’s complaint for failure to state a
21 violation of federal law. Dkt. 22. Defendants argue that the complaint was frivolous.
22 Dkt. 24 at 3. The Court disagrees that the complaint was frivolous. Although the alleged
23 violations of state law will not support a federal claim, Cortland adamantly contends that
24 violations of state law occurred. Pursuing these claims in this forum is more a
25 misunderstanding of the law than a frivolous endeavor. Cortland, however, is on notice
26 that any subsequent actions under § 1983 must be supported by allegations of violations
27 of federal law.

III. ORDER

Therefore, it is hereby **ORDERED** that Defendants' motion for attorney fees (Dkt. 24) is **DENIED**.

DATED this 10th day of February, 2012.



BENJAMIN H. SETTLE
United States District Judge